

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

September 25, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.:05od-035

OAHU

Grant of Perpetual, Non-Exclusive Easement to Hilton Hawaiian Village LLC, for  
Maintenance Purposes, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:  
portion of 021

APPLICANT:

Hilton Hawaiian Village, LLC, a domestic limited liability company whose business and  
mailing address is 2005 Kalia Road, Honolulu, Hawaii 96815.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map  
Key: (1) 2-3-037:021 portion as shown on the attached map labeled Exhibit A.

AREA:

To be determined.

ZONING:

State Land Use District: Urban/Conservation  
City & County of Honolulu LUO: Public Precinct

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove saltwater wells, circulation system, landscaping area, and walkway over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on December 23, 2005 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u>  </u>
Registered business name confirmed:	YES <u>X</u>	NO <u>  </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>  </u>

APPLICANT REQUIREMENTS: Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
- 3) Process and obtain subdivision at Applicant's own cost.

REMARKS:

In September 1955, the Territory of Hawaii (Territory) and Kaiser Community Homes (Kaiser) entered an agreement in which the Territory was to construct the beach and recreation area. In return, Kaiser was to dredge and construct the lagoon, maintain the lagoon and culverts and any beach within and around the perimeter of the lagoon, install

and maintain power lines, pumps and valves. Territory also received all littoral rights on shoreline properties owned by Kaiser.

Hilton Hawaiian Village (HHV), current owner of the abutting properties, started the redevelopment of its properties in 2005. One of the components of the redevelopment was to improve the condition of the lagoon, by putting in new circulation system and landscaping the perimeter of the lagoon. The improvements of the lagoon area were completed about one year ago, which include new circulation system, pump house, power and communication lines, grassy area, pedestrian walkway around the perimeter, fencing, and sandy beach.

CDUP (OA-3297) was approved by the Board on May 26, 2006 (item K-1) regarding the new improvements. Staff notes that the 1955 agreement requires HHV (the current owner) to maintain the pump and valves with the intention of maintaining the water quality in the lagoon. With the new improvements mentioned above, staff believes an updated agreement which stipulates the maintenance responsibility of HHV is necessary. Therefore, staff brings the request to the Board in today's agenda.

On February 11, 2005, item D-9, staff requested the Board issue right-of-entry for saltwater wells and issuance of an easement for the lagoon area. The Board deleted the recommendation regarding the issuance of an easement, and only issued the right-of-entry. The minutes of the 2005 Board meeting shows there was some discussion as to the necessity of issuance of the easement at that time. Eventually, it was decided that the easement could be issued at a later date.

In January 12 and 27, 2006, Division of Boating and Ocean Recreation (DOBOR) obtained the Board approval for issuance of perpetual, non-exclusive easements relating to the overall improvement of the lagoon area to the utility companies and Board of Water Supply at gratis. The easements are for waterline, phone lines, cable, and electrical lines. The 2006 submittal cited the public would benefit from HHV's improvements.

Pursuant to Section 171-13, HRS, any easement shall be subject to an appraisal conducted either by staff or an independent appraiser. Notwithstanding the 2006 approval regarding waiver of consideration for the utility companies, staff recommends the Board authorize an appraisal for the subject request.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

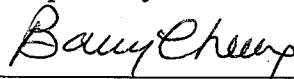
Staff did not solicit comments from other governmental agencies as the process has been completed during the environmental assessment stage.

There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:



1. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key (1) 2-6-008:034 and (1) 2-6-009:001 & 010, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Hilton Hawaiian Village, LLC covering the subject area for maintenance purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
  - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key (1) 2-6-008:034 and (1) 2-6-009:001 & 010, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

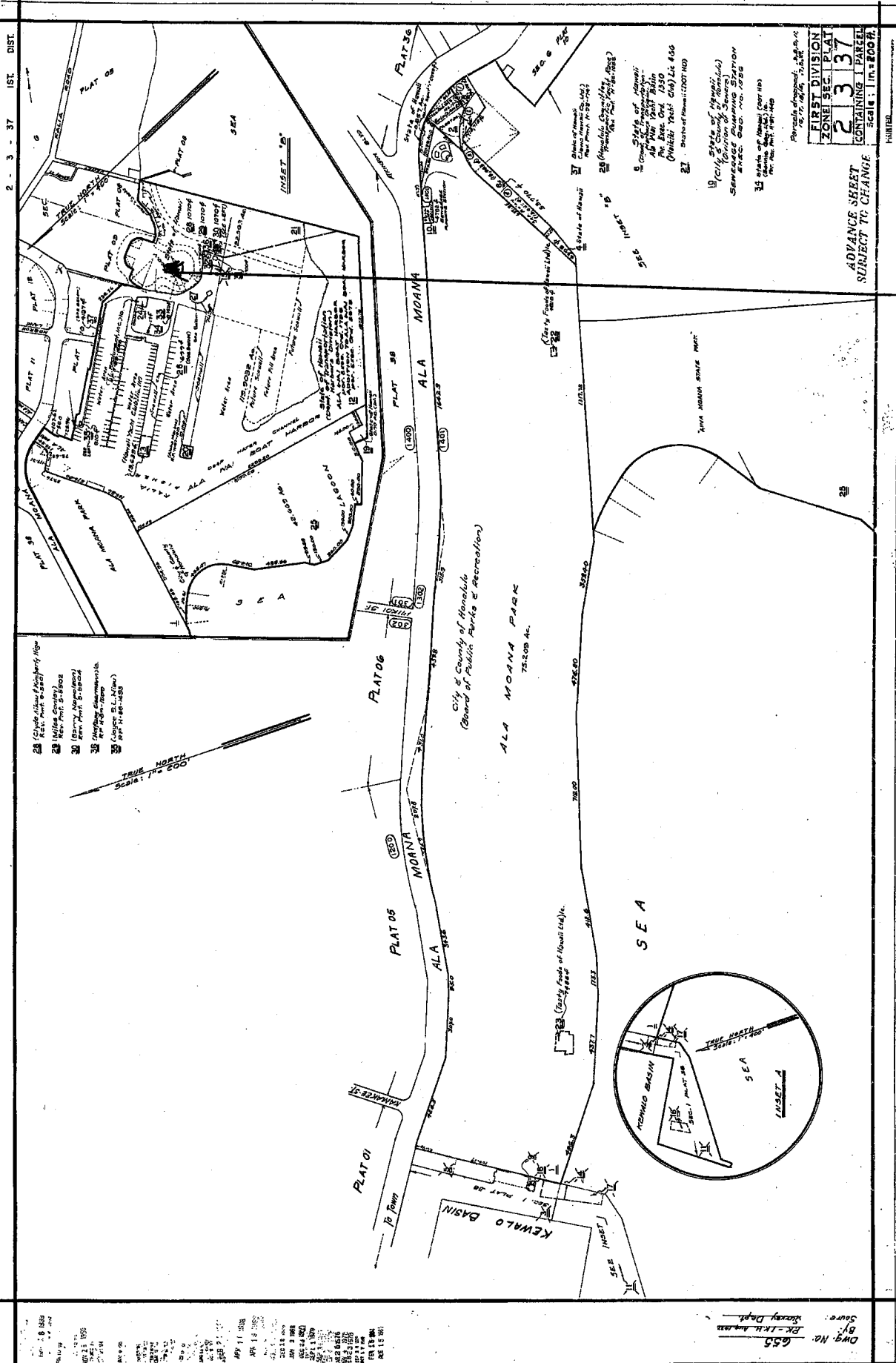
Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
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Laura H. Thielen, Chairperson 



Subject Location